
HOUSE BILL No. 1651

DIGEST OF INTRODUCED BILL

Citations Affected: IC 25-4; IC 25-21.5; IC 25-31-1.

Synopsis: Civil penalties for unregistered practice. Provides that a person or entity that: (1) practices or offers to practice architecture; (2) practices or offers to practice landscape architecture; (3) practices or offers to practice land surveying; or (4) practices or offers to practice engineering; without an applicable registration or exemption is subject to a civil penalty not to exceed \$5,000 for each violation. Requires that the civil penalty be paid not later than 60 days after the effective date of the order imposing the civil penalty. Allows the board of registration for architects and landscape architects, the state board of registration for land surveyors, and the state board of registration for professional engineers to: (1) investigate and take action concerning complaints involving persons the board has reason to believe should be registered; (2) subpoena witnesses and documents; and (3) request the attorney general to bring an action in court to enforce a subpoena.

Effective: July 1, 2007.

Dembowski

January 23, 2007, read first time and referred to Committee on Labor and Employment.

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Introduced

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

HOUSE BILL No. 1651

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 25-4-1-4, AS AMENDED BY P.L.194-2005,
2 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2007]: Sec. 4. **(a)** The board shall be entitled to the services
4 of the attorney general in connection with any of the business of the
5 board. The board shall have the power to administer oaths and take
6 testimony and proofs concerning any matter which may come within its
7 jurisdiction. The attorney general, the prosecuting attorney of any
8 county, the board, or a citizen of a county wherein any person, not
9 herein exempted, shall engage in the practice of architecture or
10 landscape architecture, as herein defined, without first having obtained
11 a certificate of registration, or without first having renewed an expired
12 certificate of registration, so to practice, may, in accordance with the
13 provisions of the laws of this state governing injunctions, maintain an
14 action, in the name of the state of Indiana, to enjoin such person from
15 engaging in the practice of architecture or landscape architecture, as
16 herein defined, until a certificate of registration is secured, or renewed,
17 in accordance with the provisions of this chapter. Any person who has

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been so enjoined and who violates the injunction shall be punished for contempt of court. The injunction shall not relieve such person so practicing architecture or landscape architecture without a certificate of registration, or without first having renewed an expired certificate of registration, from a criminal prosecution therefor, as is provided by this chapter, but such remedy by injunction shall be in addition to any remedy provided for herein for the criminal prosecution of such offender. In charging any person in a complaint for an injunction, or in an affidavit, information, or indictment, with the violation of the provisions of this chapter, by practicing architecture or landscape architecture without a certificate of registration or without having renewed an expired certificate of registration, it shall be sufficient to charge that the person did upon a certain day and in a certain county engage in the practice of architecture or landscape architecture, without having a certificate of registration or without having renewed an expired certificate of registration, to so practice, without averring any further or more particular facts concerning the same. The attorney general and the Indiana professional licensing agency may use the registered architects and registered landscape architects investigative fund established by section 32 of this chapter to hire investigators and other employees to enforce the provisions of this article and to investigate and prosecute violations of this article.

(b) The board may investigate and take action under IC 25-1-7 concerning complaints involving persons the board has reason to believe should be registered under this article.

SECTION 2. IC 25-4-1-32, AS AMENDED BY P.L.177-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 32. (a) The registered architects and registered landscape architects investigative fund is established to provide funds for administering and enforcing the provisions of this article, including investigating and taking enforcement action against violators of this article. The fund shall be administered by the attorney general and the Indiana professional licensing agency.

(b) The expenses of administering the fund shall be paid from the money in the fund. The fund consists of money from: ~~a fee~~

(1) fees imposed upon registered architects and registered landscape architects under section 16(f) of this chapter; **and**

(2) civil penalties collected under section 33 of this chapter and IC 25-4-2-14.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

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(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund. If the total amount in the fund exceeds five hundred thousand dollars (\$500,000) at the end of a state fiscal year after payment of all claims and expenses, the amount that exceeds five hundred thousand dollars (\$500,000) reverts to the state general fund.

(e) Money in the fund is continually appropriated for use by the attorney general and the Indiana professional licensing agency to administer and enforce the provisions of this article and to conduct investigations and take enforcement action against persons violating the provisions of this article.

SECTION 3. IC 25-4-1-33 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 33. (a) An individual, a partnership, a limited liability company, a corporation, or another entity that practices or offers to practice architecture without being registered or exempted from registration under Indiana law is subject to a civil penalty not to exceed five thousand dollars (\$5,000) for each violation as determined by the board. Each day of violation constitutes a separate violation for which a separate civil penalty may be imposed under this section. A civil penalty may be imposed under this subsection only after a proceeding under IC 4-21.5.**

(b) In a proceeding under this section, the board may issue subpoenas to require the:

- (1) attendance and testimony of witnesses; and**
- (2) production of evidence, including books, papers, and other documents.**

The board may request the attorney general to bring an action in court to enforce a subpoena issued under this subsection.

(c) A civil penalty imposed under subsection (a) must be paid not later than sixty (60) days after the effective date of the order imposing the civil penalty.

(d) The funds collected under this section shall be deposited in the registered architects and registered landscape architects investigative fund established by section 32 of this chapter.

SECTION 4. IC 25-4-2-14 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 14. (a) An individual, a partnership, a limited liability company, a corporation, or another entity that practices or offers to practice landscape architecture without being registered or exempted from registration under Indiana law is subject to a civil penalty not to exceed five thousand dollars (\$5,000) for each violation as determined by the board. Each day of violation**

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constitutes a separate violation for which a separate civil penalty may be imposed under this section. A civil penalty may be imposed under this subsection only after a proceeding under IC 4-21.5.

(b) In a proceeding under this section, the board may issue subpoenas to require the:

- (1) attendance and testimony of witnesses; and
- (2) production of evidence, including books, papers, and other documents.

The board may request the attorney general to bring an action in court to enforce a subpoena issued under this subsection.

(c) A civil penalty imposed under subsection (a) must be paid not later than sixty (60) days after the effective date of the order imposing the civil penalty.

(d) The funds collected under this section shall be deposited in the registered architects and registered landscape architects investigative fund established by IC 25-4-1-32.

SECTION 5. IC 25-21.5-2-15 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 15. The board may investigate and take action under IC 25-1-7 concerning complaints involving persons the board has reason to believe should be registered under this article.**

SECTION 6. IC 25-21.5-11-4, AS AMENDED BY P.L.177-2006, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 4. (a) The registered land surveyor and registered land surveyor in training investigative fund is established to provide funds for administering and enforcing the provisions of this article, including investigating and taking enforcement action against violators of this article. The fund shall be administered by the attorney general and the licensing agency.**

(b) The expenses of administering the fund shall be paid from the money in the fund. The fund consists of money from: ~~a fee~~

(1) fees imposed upon registered land surveyors and registered land surveyors in training under IC 25-21.5-3-4(b); **and**

(2) civil penalties collected under IC 25-21.5-13-5.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund. If the total amount in the fund exceeds five hundred thousand dollars (\$500,000) at the end of a state fiscal year after payment of all claims and expenses, the amount that exceeds five

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hundred thousand dollars (\$500,000) reverts to the state general fund.

(e) Money in the fund is continually appropriated for use by the attorney general and the licensing agency to administer and enforce the provisions of this article and to conduct investigations and take enforcement action against persons violating the provision of this article.

SECTION 7. IC 25-21.5-13-5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 5. (a) An individual, a partnership, a limited liability company, a corporation, or another entity that practices or offers to practice land surveying without being registered or exempted from registration under Indiana law is subject to a civil penalty not to exceed five thousand dollars (\$5,000) for each violation as determined by the board. Each day of violation constitutes a separate violation for which a separate civil penalty may be imposed under this section. A civil penalty may be imposed under this subsection only after a proceeding under IC 4-21.5.**

(b) In a proceeding under this section, the board may issue subpoenas to require the:

(1) attendance and testimony of witnesses; and

(2) production of evidence, including books, papers, and other documents.

The board may request the attorney general to bring an action in court to enforce a subpoena issued under this subsection.

(c) A civil penalty imposed under subsection (a) must be paid not later than sixty (60) days after the effective date of the order imposing the civil penalty.

(d) The funds collected under this section shall be deposited in the registered land surveyor and registered land surveyor in training investigative fund established by IC 25-21.5-11-4.

SECTION 8. IC 25-31-1-7, AS AMENDED BY P.L.194-2005, SECTION 77, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 7. (a) The board shall enforce and administer the provisions of this chapter, and adopt rules, not inconsistent with the Constitution and laws of this state, as may be reasonably necessary for the proper performance of its duties and the regulations of the proceedings before it. The board shall adopt rules establishing standards for the competent practice of engineering and for the administration of the registered professional engineers and registered engineering interns investigative fund established by section 35 of this chapter. Any rulemaking by the board shall be in accordance with**

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1 IC 4-22-2.

2 (b) The board shall adopt and have an official seal.

3 **(c) The board may investigate and take action under IC 25-1-7**
 4 **concerning complaints involving persons the board has reason to**
 5 **believe should be registered under this chapter.**

6 SECTION 9. IC 25-31-1-29.5 IS ADDED TO THE INDIANA
 7 CODE AS A NEW SECTION TO READ AS FOLLOWS
 8 [EFFECTIVE JULY 1, 2007]: **Sec. 29.5. (a) An individual, a**
 9 **partnership, a limited liability company, a corporation, or another**
 10 **entity that practices or offers to practice engineering without being**
 11 **registered or exempted from registration under Indiana law is**
 12 **subject to a civil penalty not to exceed five thousand dollars**
 13 **(\$5,000) for each violation as determined by the board. Each day**
 14 **of violation constitutes a separate violation for which a separate**
 15 **civil penalty may be imposed under this section. A civil penalty**
 16 **may be imposed under this subsection only after a proceeding**
 17 **under IC 4-21.5.**

18 **(b) In a proceeding under this section, the board may issue**
 19 **subpoenas to require the:**

20 **(1) attendance and testimony of witnesses; and**

21 **(2) production of evidence, including books, papers, and other**
 22 **documents.**

23 **The board may request the attorney general to bring an action in**
 24 **court to enforce a subpoena issued under this subsection.**

25 **(c) A civil penalty imposed under subsection (a) must be paid**
 26 **not later than sixty (60) days after the effective date of the order**
 27 **imposing the civil penalty.**

28 **(d) The funds collected under this section shall be deposited in**
 29 **the registered professional engineers and registered engineering**
 30 **interns investigative fund established by section 35 of this chapter.**

31 SECTION 10. IC 25-31-1-35, AS AMENDED BY P.L.177-2006,
 32 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 33 JULY 1, 2007]: **Sec. 35. (a) The registered professional engineers and**
 34 **registered engineering interns investigative fund is established to**
 35 **provide funds for administering and enforcing the provisions of this**
 36 **article, including investigating and taking enforcement action against**
 37 **violators of this article. The fund shall be administered by the attorney**
 38 **general and the licensing agency.**

39 **(b) The expenses of administering the fund shall be paid from the**
 40 **money in the fund. The fund consists of money from:**

41 **(1) the fee imposed upon registered professional engineers and**
 42 **registered engineering interns under section 9(b) of this chapter;**

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1 **and**

2 **(2) civil penalties collected under section 29.5 of this chapter.**

3 (c) The treasurer of state shall invest the money in the fund not
4 currently needed to meet the obligations of the fund in the same
5 manner as other public money may be invested.

6 (d) Money in the fund at the end of a state fiscal year does not revert
7 to the state general fund. If the total amount in the fund exceeds five
8 hundred thousand dollars (\$500,000) at the end of a state fiscal year
9 after payment of all claims and expenses, the amount that exceeds five
10 hundred thousand dollars (\$500,000) reverts to the state general fund.

11 (e) Money in the fund is continually appropriated for use by the
12 attorney general and the licensing agency to administer and enforce the
13 provisions of this article and to conduct investigations and take
14 enforcement action against persons violating the provisions of this
15 article.

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